IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6104 OF 2004

Priyankan Sharan & Anr. .. Petitioners

Versus

Union of India and Ors. .. Respondents

Mr.P.B.Shah for the petitioners

None for the respondents

CORAM: A.P.SHAH &
S.U.KAMDAR, JJ

DATED: 25TH AUGUST, 2004

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. The present petition is one more case of petitioners seeking a discharge from the bond executed by them to serve the nation for a period of 5 years on the ground of medical disability. Some of the material facts are as under:

2. On 28th July 1999, petitioner no.1 was selected by the Government for admission to the MBBS Degree

Course of Armed Forces Medical College at Pune. As one of the terms and conditions, the petitioners were required to execute the bond. Sometime in or about 2000, the petitioner was advised to undergo surgical treatment for "CONGENITAL BLOCK VERTEBRA leading to SECONDARY CANAL STENOSIS. On 10th May 2003, petitioner no.1 was declared medically unfit for commissioning by the Board. On 20th June 2003, the petitioner no.1 was declared as Non Service Liability and was directed to pay up the bond amount of a sum of Rs.6.0 lakhs. On 1st May 2004, the petitioners made representation to the Directorate General Armed Forces Services for waiver of the payment of the said amount on various grounds. On 29th April 2004, the said appeal/representation of the petitioners was rejected and the petitioners have thus filed the present writ petition.

3. When we heard the present petition we found that there are a large number of cases which are being reported of being medically unfit and seeking discharge from the bond on the ground that there is

no deliberate unwillingness to serve the nation in accordance with the bond. To satisfy ourselves that this is a genuine case, we called upon the petitioner to produce the medical reports. The petitioner has produced medical reports before us and we have perused the same. On perusal of the said reports, we find that the petitioners' case is a genuine case. Particularly there are various medical reports including that of All India Institute of Medical Sciences.

4. In view of the aforesaid, we pass the same order as it has been passed in a large number of writ petitions including Writ Petition No.5088 of 2004 by this Court itself. We are also informed that the petitioner has already deposited a sum of Rs.1.0 lakh with the respondents and the respondents have already issued necessary No Objection Certificate.

5. In the aforesaid light of the fact, we hold that the petitioner stands discharged from all the terms and conditions of the said bond cum bank

guarantee and shall not be liable to pay any further amount whatsoever.

Parties to act on a copy of this order duly authenticated by the Court Stenographer.